

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) Cr. No. 05-30023-MAP
)
WALTER MAY)

GOVERNMENT'S CONSOLIDATED RESPONSE
TO DEFENDANT'S DISPOSITIVE MOTIONS

The United States of America, by its undersigned attorneys, hereby provides the Court with the Government's Consolidated Response to Defendant's Dispositive Motions.

1. Motion to Suppress Evidence

The defendant moves to suppress "any conversations or statements made by Defendant while he was illegally detained in custody subsequent to his arrest in Sri Lanka but prior to his being brought before a United States Magistrate and while he was unlawfully deprived of his constitutional right to counsel and at a time when he had not been advised of his constitutional rights...". Motion at 1. In support of his motion the defendant filed an affidavit in which he alleges he was threatened with physical violence if he did not make a statement. He further alleges that the conditions in the prison in which he was held were deplorable. Finally, immediately prior to giving a statement to law enforcement officers the defendant alleges he was made to watch a jail guard beat another inmate. The defendant says the jail guard told him if the did not make a statement he would be similarly beaten. Affidavit at 1-3.

During discovery the defendant was provided a report which

detailed a statement he gave on September 7, 2004 to ICE SA Kevin Stephenson at the Colombo Main Prison, Colombo, Sri Lanka. The report states that the defendant was read the Miranda warnings, signed a written waiver and made a voluntary statement. The government has attempted to locate SA Stephenson and well as Sri Lankan officials who could testify as to the defendant's treatment while in prison in Sri Lanka. Those efforts are ongoing. The government would note that the statement given by the defendant is relevant to other crimes and would therefore its admissibility would be controlled by F.R.Evid. 404(b).

2. Defendant's Motion in Limine Regarding E-Mail and Chat Transcript Evidence.

In his motion the "defendant requests that the Government in seeking to admit e-mail and chat transcript evidence, be ordered to comply with the Federal Rules of Evidence as described herein." Motion at 7. The government intends to comply with the rules of evidence during the trial of this case.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:

/s/ Todd E. Newhouse
TODD E. NEWHOUSE
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

Suffolk, ss.

Springfield, Massachusetts
April 19, 2007

I, TODD E. NEWHOUSE, Assistant U.S. Attorney, do hereby certify that I have served a copy of the foregoing, by ECF to

counsel of record.

/s/ Todd E. Newhouse
TODD E. NEWHOUSE
Assistant U.S. Attorney